

UNITED STATES OF AMERICA
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA)	
)	
v.)	
)	CRIMINAL NO. 07-CR-189-GZS
JASON GERHARD,)	
)	
Defendant)	

FINDINGS AFFECTING SENTENCE

I FIND as follows:

1. The facts as set forth in the Presentence Report, as amended by the Addendum.

Count One – Conspiracy to Prevent Officers of the United States from Discharging Their Duties.

2. United States Sentencing Commission Guideline 2X1.1 for violation of 18 U.S.C. § 372 instructs to apply the base offense level from the guideline for the substantive offense plus any adjustments from the guideline for any intended conduct that can be established with reasonable certainty. The substantive offense is obstruction of justice; therefore, pursuant to 2J1.2 the resulting base offense level is 14.

3. The instant offense involved threatening physical injury to a person in order to obstruct justice; therefore, pursuant to 2J1.2(b)(1)(B), the base offense level is increased by 8 for a total of 22.

4. The instant offense resulted in substantial interference with the administration of justice; therefore, pursuant to 2J1.2(b)(2), the base offense level is increased by 3 for a total of 25.

Count Two A – Conspiracy to Commit Offenses Against the United States.

5. United States Sentencing Commission Guideline 2A2.4 for violation of 18 U.S.C. §§ 371 and 111(a)(1) calls for a base offense level of 10.

Pseudo Count Two B – Conspiracy to Commit Offenses Against the United States in Violation of 18 U.S.C. §3.

6. United States Sentencing Commission Guideline 2X3.1 for violation of 18 U.S.C. § 371 and 3 provides that the base offense level is 6 levels lower than the offense level for the underlying offense and shall not be less than level 4 or more than level 30. The substantive offense is obstruction of justice; therefore, pursuant to 2J1.2 the resulting base offense level is 14.

7. The instant offense involved threatening physical injury to a person in order to obstruct justice; therefore, pursuant to 2J1.2(b)(1)(B), the base offense level is increased by 8 for a total of 22.

8. The instant offense resulted in substantial interference with the administration of justice; therefore, pursuant to 2J1.2(b)(2), the base offense level is increased by 3 for a total of 25.

9. This figure is then reduced 6 levels for a base offense level of 19.

10. Defendant willfully obstructed or impeded the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense; therefore, pursuant to 3C1.1 two levels are added for a total of 21.

Count Three – Accessory After the Fact

11. United States Sentencing Commission Guideline 2X3.1 for violation of 18 U.S.C. § 3 provides that the base offense level is 6 levels lower than the offense level for the underlying offense and shall not be less than level 4 or more than level 30. The substantive offense is obstruction of justice; therefore, pursuant to 2J1.2 the resulting base offense level is 14.

12. The instant offense involved threatening physical injury to a person in order to obstruct justice; therefore, pursuant to 2J1.2(b)(1)(B), the base offense level is increased by 8 for a total of 22.

13. The instant offense resulted in substantial interference with the administration of justice; therefore, pursuant to 2J1.2(b)(2), the base offense level is increased by 3 for a total of 25.

14. This figure is then reduced 6 levels for a base offense level of 19.

Count Four – Carrying, Using, and Possessing a Firearm in Connection with a Crime of Violence.

15. United States Sentencing Commission Guideline 2K2.4(b) for violation of 18 U.S.C. § 924(c) states that the guideline sentence shall be the minimum term of imprisonment required by statutes, which in this case is 5 years.

16. The combined adjusted offense level under the Multiple-Count Adjustment contained in 3D1.4 is 25.

17. Defendant's Criminal History Category is Category I.

18. For a Total Offense Level of 25 and a Criminal History Category of I, the applicable Guideline range is 57 to 71 months.

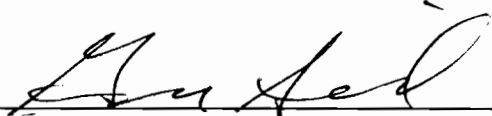
19. The Defendant is not eligible for probation. Guideline 5B1.1(b)(1).

20. Pursuant to U.S.S.G. § 5D1.2(a)(1), the term for supervised release is at least three years but not more than five years.

21. Pursuant to U.S.S.G. § 5E1.2(c)(4), the fine range for the instant offense is from \$10,000 to \$100,000.

22. A total special assessment fee of \$400, \$100 for each count of conviction, is mandatory, pursuant to 18 U.S.C. § 3013.

SO ORDERED.


George Z. Singal
Chief United States District Judge

Dated this 31 day of July, 2008.